

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:09CR252
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
REFUGIO M. PEREZ,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report and Addendum (“PSR”), and the Defendant’s objections filed on ECF (Filing No. 94). (As noted in the Addendum, there was no objection by the Defendant to the initial PSR.) See Order on Sentencing Schedule, ¶ 6. The Court takes note that the government did not file a formal objection on ECF, but the government did present an objection in the Addendum to the PSR, noting that the PSR calls for a sentence outside the parties’ plea agreement. It appears that the government’s position and Defendant’s position are in accord with the exception of the Defendant’s objection to the enhancement for a destructive device (paragraph 50).

The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The governments’ informal objection will be heard at the sentencing hearing and the Court intends to adopt the parties’ plea agreement;

2. The Defendant's objections to the PSR entitled, "Objection to the Presentence Investigation Report" (Filing No. 94) will be heard at the sentencing hearing.

3. The Court intends to adopt the PSR in all other respects;

4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

5. Absent submission of the information required by paragraph 3 of this Order, these amended tentative findings are final; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 23rd day of September, 2015.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge